



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,867	10/30/2003	George Paskalov	100798.0008US1	2026
24392 7590 06/30/2009 FISH & ASSOCIATES, PC ROBERT D. FISH 2603 Main Street Suite 1000 Irvine, CA 92614-6232				
EXAMINER				
WONG, EDNA				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
06/30/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GEORGE PASKALOV,
MARK GORODKIN and
VIKTOR SOKOLOV

Application No. 10/698,867
Technology Center 1795

Mailed: June 30, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 21, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On January 15, 2008, the examiner mailed a communication acknowledging receipt of Appellants' Reply Brief, dated January 9, 2008. A review of the Response to Reply Brief reveals that the examiner did not provide proper acknowledgment. The comments made by the examiner would constitute a Supplemental Examiner's Answer.

In accordance with MPEP 1207.05:

Every supplemental examiner's answer must be approved by a Technology Center (TC) Director or designee. The examiner may furnish a supplemental examiner's answer in response to any one of the following:

1. (A) A reply brief that raises new issues. The examiner may NOT include a new ground of rejection in the supplemental examiner's answer responding to a reply brief. See 37 CFR 41.43(a)(2). Appellant may file another reply brief in response to the supplemental examiner's answer within two months from the mailing of the supplemental answer. See MPEP § 1208.
2. (B) A remand by the Board for further consideration of a rejection under 37 CFR 41.50 (a). See MPEP § 1211.01. In response to a supplemental examiner's answer that is written in response to a remand by the Board for further consideration of a rejection, appellant must either file: (1) a reply under 37 CFR 1.111 to request that prosecution be reopened; or (2) a reply brief to request that the appeal be maintained, within two months from the mailing of the supplemental examiner's answer, to avoid *sua sponte* dismissal of the appeal as to the claims subject to the rejection for which the Board has remanded the proceeding. Examiner may include a new ground of rejection in the supplemental examiner's answer responding to a remand

Application No. 10/698,867

by the Board for further consideration of a rejection. See
MPEP § 1207.03.

3. (C) A remand by the Board for other purposes that are not for further consideration of a rejection under 37 CFR 41.50(a) . The examiner may NOT include a new ground of rejection in the supplemental examiner's answer responding to a remand by the Board, unless the remand is for further consideration of a rejection under 37 CFR 41.50(a) (see item B above). Appellant may file a reply brief with two months from the mailing of the supplemental answer.

A review of the Response to Reply Brief reveals that the examiner did not obtain proper approval.

Accordingly, it is

ORDERED that the application is returned to the Examiner for:

- 1) proper acknowledgment of the Reply Brief is required and/or appropriate consideration of the Reply Brief dated January 9, 2008; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/DAL/

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614-6232